UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,085	07/21/2000	Andreas Kruger	042933/300242	4806

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EXAMINER
MILLER, BRANDON J

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/621,085	KRUGER ET AL.
	Examiner	Art Unit	
	BRANDON J. MILLER	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>24 April 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>9-28</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>9-28</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>7/21/2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
      1.☒ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Response to Amendment/Remarks

Continued Examination Under 37 CFR 1.114

I.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application

is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR

1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn

pursuant to 37 CFR 1.114. Applicant's submission filed on 04/24/2009 has been entered and

claims 9-28 are pending in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

II.   Claims 10, 12, 14, 16, 18, 20, 22, 24, and 27-28 are rejected under 35

U.S.C. 102(e) as being anticipated by Hardouin (US 6,311,078 B1).

Regarding claim 10 Hardouin teaches a system comprising at least one operable device

with operating states that are producible or changeable, the device configured for use in a vehicle

(see col. 1, lines 57-67 and col. 2, lines 11-15). Hardouin teaches an operating panel configured

to allow a user to cause at least one of producing existing operating states or changing existing

operating states of the operable device (see col. 1, lines 57-67). Hardouin teaches at least one

sensor in the vehicle (see col. 2, lines 12-15). Hardouin teaches a decision unit, coupled to the

operating panel, which receives driving speed data from the at least one sensor for determining

vehicle-specific conditions by measuring fluctuation of the driving speed of the vehicle over a

time period and blocks are releases the existing operating states of the operable device based on

the measured fluctuation (see col. 2, lines 11-15, 17-20, 29-38, blocking the ability to receive or

originate a call reads on blocking or releasing existing operating states because having the ability

to receive or originate a call is the operating state of the device that exists before that ability is

blocked based on speed fluctuation).

Regarding claim 12 Hardouin teaches wherein the operable device is operable to perform

at least one of receiving and transmitting data (see col. 1, lines 58-67).

Regarding clam 14 Hardouin teaches equipment which collects information on at least

one of conditions or states under which or by which the operable device is currently being

operated, and transmits the information as data to a decision unit (see col. 2, lines 4-5).

Regarding claim 16 Hardouin and Hahn teach a device as recited in claim 14 and is

rejected given the same reasoning as above.

Regarding claim 18 Hardouin teaches an operable device comprising a receiving unit,

wherein data is received by a receiving unit and is transmitted to a decision unit to be used alone

or together with other data to control the blocking of the operating states or releasing of the

operating state of an operable device (see col. 2, lines 11-15, 17-20, 29-32).

Regarding claim 20 Hardouin and Hahn teach a device as recited in claim 18 and is

rejected given the same reasoning as above.

Regarding claim 22 Hardouin and Hahn teach a device as recited in claim 18 and is rejected given the same reasoning as above.

Regarding claim 24 Hardouin and Hahn teach a device as recited in claim 18 and is rejected given the same reasoning as above.

Regarding claim 27 Hardouin teaches an apparatus configured to be coupled to an operating panel of an operable device with operating states that are producible or changeable, the apparatus comprising a decision unit configured for usage in a vehicle (see col. 1, lines 57-67 and col. 2, lines 11-15). Hardouin teaches the apparatus comprising an input for receiving driving speed data from at least sensor present in the vehicle (see col. 2, lines 11-15). Hardouin teaches the decision unit configured to determine vehicle-specific conditions by measuring fluctuation of the driving speed over a time period; wherein the decision unit is configured to block are release the existing operating states of the operable device based on the measured fluctuation (see col. 2, lines 11-15, 17-20, 29-38, blocking the ability to receive or originate a call reads on blocking or releasing existing operating states because having the ability to receive or originate a call is the operating state of the device that exists before that ability is blocked based on speed fluctuation).

Regarding claim 28 Hardouin teaches an output signal, which is used for changing the operating states of the operable device connected to the decision unit (see col. 2, lines 17-24 & 29-32).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

III.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.,* 383 U.S. 1,148 USPQ 459
(1966), that are applied for establishing a background for determining obviousness under 35
U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.

3.   Resolving the level of ordinary skill in the pertinent art.

4.   Considering objective evidence present in the application indicating obviousness
       or nonobviousness.

IV.   Claims 9, 11, 13, 15, 17, 19, 21, 23, and 25-26 are rejected under 35 U.S.C.

103(a) as being unpatentable over Hardouin (US 6,311,078 B1) in view of Hahn et al. (US

6,188,949 B1).

Regarding claim 9 Hardouin teaches a system comprising at least one operable device with operating states that are producible or changeable, for usage in a vehicle (see col. 1, lines 57-67 and col. 2, lines 11-15). Hardouin teaches an operating panel configured to allow a user to cause at least one of producing existing operating states or changing existing operating states of the operable device (see col. 1, lines 57-67). Hardouin teaches at least one sensor in the vehicle (see col. 2, lines 12-15). Hardouin teaches a decision unit, coupled to the operating panel of the operable device, which receives data from said at least one sensor for determining a vehicle-specific condition over a time period of vehicle operation by evaluating the received sensor data indicating an actual driving situation of the vehicle; and blocks or releases the existing operating states of the operable device according to whether the actual driving situation is detected to be dangerous or non-dangerous, the detection being made on a basis of the data (see col. 2, lines 11-15, 17-20, 29-32, blocking the ability to receive or originate a call reads on blocking or releasing existing operating states because having the ability to receive or originate a call is the operating state of the device that exists before that ability is blocked based on speed fluctuation; and actual speed being above or below predefined speed corresponds to actual driving situation being dangerous or non-dangerous respectively (see col. 1, lines 10-11)). Hardouin does not specifically teach converting the vehicle-specific conditions into a driving profile. Hahn teaches converting vehicle-specific conditions into a driving profile (see col. 5, lines 35-41, col. 6, lines 23-25 and col. 7, lines 55-58). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device in Hardouin adapt to include converting the vehicle-specific conditions into a driving profile as taught in Hahn because the received data in

Hardouin can be stored in the memory device of Hardouin in the same way that the data is received and stored in Hahn to create the driving profile.

Regarding claim 11 Hardouin teaches wherein the operable device is operable to perform at least one of receiving and transmitting data (see col. 1, lines 58-67).

Regarding clam 13 Hardouin teaches equipment which collects information on at least one of conditions or states under which or by which the operable device is currently being operated, and transmits the information as data to a decision unit (see col. 2, lines 4-5).

Regarding claim 15 Hardouin and Hahn teach a device as recited in claim 13 and is rejected given the same reasoning as above.

Regarding claim 17 Hardouin teaches an operable device comprising a receiving unit, wherein data is received by a receiving unit and is transmitted to a decision unit to be used alone or together with other data to control the blocking of the operating states or releasing of the operating state of an operable device (see col. 2, lines 11-15, 17-20, 29-32).

Regarding claim 19 Hardouin and Hahn teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 21 Hardouin and Hahn teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 23 Hardouin and Hahn teach a device as recited in claim 17 and is rejected given the same reasoning as above.

Regarding claim 25 Hardouin teaches a method for controlling an operable device, which is used in a vehicle (see col. 1, lines 57-67 and col. 2, lines 11-15). Hardouin teaches controlling an operating panel by a user can cause at least one of producing existing operating states or

changing existing operating states of the operable device (see col. 1, lines 57-67). Hardouin

teaches receiving data from at least one sensor in a decision unit which is coupled to the

operating panel; determining vehicle-specific conditions over a time period of vehicle operation

by evaluating the received sensor data indicating an actual driving situation of the vehicle; and

blocking or releasing the existing operating states of the operable device according to whether an

actual driving situation is dangerous or non-dangerous on a basis of the data (see col. 2, lines 11-

15, 17-20, 29-32, blocking the ability to receive or originate a call reads on blocking or releasing

existing operating states because having the ability to receive or originate a call is the operating

state of the device that exists before that ability is blocked based on speed fluctuation; and actual

speed being above or below predefined speed corresponds to actual driving situation being

dangerous or non-dangerous respectively (see col. 1, lines 10-11)). Hardouin does not

specifically teach converting the vehicle-specific conditions into a driving profile. Hahn teaches

converting vehicle-specific conditions into a driving profile (see col. 5, lines 35-41, col. 6, lines

23-25 and col. 7, lines 55-58). It would have been obvious to one of ordinary skill in the art at

the time the invention was made to make the device in Hardouin adapt to include converting the

vehicle-specific conditions into a driving profile as taught in Hahn because the received data in

Hardouin can be stored in the memory device of Hardouin in the same way that the data is

received and stored in Hahn to create the driving profile.

Regarding claim 26 Hardouin teaches a decision unit coupled to an operating panel of an

operable device with operating states that are producible or changeable, which is used in a

vehicle (see col. 1, lines 57-67 and col. 2, lines 11-15). Hardouin teaches the decision unit

comprising an input for receiving signals from at least sensor present in the vehicle (see col. 2,

lines 10-15). Hardouin teaches a decision unit, determining vehicle-specific conditions over a

time period of vehicle operation by evaluating the received sensor signal indicating an actual

driving situation of the vehicle; wherein the decision unit is configured to block or release the

existing operating states of the operable device according to whether an actual driving situation

is detected to be dangerous or non-dangerous, the detection being made on a basis of the data;

and outputting a signal, which is used for changing the operating states of the operable device

connected to the decision unit (see col. 2, lines 11-15, 17-24, 29-32, blocking the ability to

receive or originate a call reads on blocking or releasing existing operating states because having

the ability to receive or originate a call is the operating state of the device that exists before that

ability is blocked based on speed fluctuation; and actual speed being above or below predefined

speed corresponds to actual driving situation being dangerous or non-dangerous respectively (see

col. 1, lines 10-11)). Hardouin does not specifically teach converting the vehicle-specific

conditions into a driving profile. Hahn teaches converting vehicle-specific conditions into a

driving profile (see col. 5, lines 35-41, col. 6, lines 23-25 and col. 7, lines 55-58). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to make the

device in Hardouin adapt to include converting the vehicle-specific conditions into a driving

profile as taught in Hahn because the received data in Hardouin can be stored in the memory

device of Hardouin in the same way that the data is received and stored in Hahn to create the

driving profile.

Response to Arguments

V.   Applicant's arguments filed 04/24/2009 have been fully considered but they are

not persuasive.

Regarding claims 10, 12, 14, 16, 18, 20, 22, 24, and 27-28 Hardouin teaches a device as

claimed. Regarding claims 9, 11, 13, 15, 17, 19, 21, 23, and 25-26 the combination of Hardouin

and Hahn teaches a device as claimed. Applicant argues that Hardouin does not teach or suggest

blocking or releasing existing operating states of the operable device. The examiner disagrees.

Hardouin does teach blocking or releasing existing operating states of the operable device (see

col. 2, lines 11-15, 17-24, 29-32). Blocking the ability to receive or originate a call, as taught in

Hardouin, reads on blocking or releasing existing operating states because having the ability to

receive or originate a call is the operating state of the device that exists before that ability is

blocked based on speed fluctuation.

Conclusion

VI.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRANDON J. MILLER whose telephone number is (571)272-

7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon J Miller/
Examiner, Art Unit 2617

June 19, 2009